

recipient is to redisclose the information to other parties. Thus, before we disclose personal information we may consider such factors as—

(a) Whether only those individuals who have a need to know the information will obtain it;

(b) Whether appropriate measures to safeguard the information to avoid unwarranted use or misuse will be taken; and

(c) Whether we would be permitted to conduct on-site inspections to see whether the safeguards are being met.

**§ 401.125 Fees.**

We follow HHS regulations (45 CFR 5.60, 5.61 and 5b.13) and §§ 422.440 and 422.441 of this chapter to determine the amount of fees, if any, to be charged for providing information under the FOIA and Privacy Act.

[45 FR 74914, Nov. 13, 1980, as amended at 50 FR 28568, July 15, 1985]

**Subpart B—How Laws Apply**

**§ 401.200 General.**

This section describes how various laws control the disclosure or confidentiality of personal information which we keep. We must consider these laws in the following order.

(a) Some laws require us to disclose information (§ 401.205); some laws require us to withhold information (§ 401.210). These laws control whenever they apply.

(b) If no law of this type applies in a given case, then we must look to the FOIA. See § 401.215.

(c) When the FOIA doesn't require disclosure, we may disclose information if both the Privacy Act and section 1106 of the Social Security Act permit the disclosure. See § 401.220.

**§ 401.205 Disclosures required by law.**

We disclose information when a law specifically requires it. The Social Security Act requires us to disclose information for certain program purposes. These include disclosures to the Office of Inspector General, HHS, the parent Locator Service, and to States pursuant to an arrangement regarding use of the Blood Donor Locator Service. Also, there are other laws which require that

we furnish other agencies information which they need for their programs. These include the Department of Veterans Affairs for its benefit programs, the Immigration and Naturalization Service to carry out its duties regarding aliens, the Railroad Retirement Board for its benefit programs, and to Federal, State, and local agencies administering Aid to Families with Dependent Children, Medicaid, unemployment compensation, food stamps, and other programs.

[56 FR 66565, Dec. 24, 1991]

**§ 401.210 Disclosures prohibited by law.**

We do not disclose information when a law specifically prohibits it. The Internal Revenue Code generally prohibits us from disclosing tax return information which we receive to maintain individual earnings records. This includes, for example, amounts of wages and contributions from employers. Other laws restrict our disclosure of certain information about drug and alcohol abuse which we collect to determine eligibility for social security benefits.

**§ 401.215 Freedom of Information Act.**

The FOIA requires us to disclose any information in our records upon request from the public, unless one of several exemptions in the FOIA applies. When the FOIA requires disclosure, the Privacy Act permits it. *The public* does not include Federal agencies, courts, or the Congress, but does include State agencies, individuals, corporations, and most other parties. The FOIA does not apply to requests that are not from *the public* (e.g., from a Federal agency). However, we apply FOIA principles to requests from these sources for disclosure of information (see § 401.300; also see §§ 401.330 and 401.335 for disclosures to Congress and the General Accounting Office.

**§ 401.220 Other laws.**

When the FOIA does not apply, we may not disclose any personal information unless both the Privacy Act and section 1106 of the Social Security Act permit the disclosure. Sections 401.305 through 401.340 discuss how we apply the various provisions of the Privacy

Act that permit disclosure. Section 1106 of the Social Security Act requires the Secretary of HHS to set out in regulations what disclosures may be made; therefore, any disclosure permitted by this regulation is permitted by section 1106.

### Subpart C—Individual Disclosures

#### § 401.300 General principles.

When no law specifically requiring or prohibiting disclosure (see §§ 401.205 and 401.210) applies to a question of whether to disclose information, we follow the FOIA principles to resolve that question. We do this to insure uniform treatment in all situations. The FOIA principle which most often applies to SSA disclosure questions is whether the disclosure would result in a “clearly unwarranted invasion of personal privacy.” To decide whether a disclosure would be a clearly unwarranted invasion of personal privacy we consider—

(a) The sensitivity of the information (e.g., whether individuals would suffer harm or embarrassment as a result of the disclosure);

(b) The public interest in the disclosure;

(c) The rights and expectations of individuals to have their personal information kept confidential; and

(d) The public’s interest in maintaining general standards of confidentiality of personal information; and

(e) Those factors discussed in § 401.120. We feel that there is a strong public interest in sharing information with other agencies with programs having the same or similar purposes, so we generally share information with those agencies. However, since there is usually little or no public interest in disclosing information for disputes between two private parties or for other private or commercial purposes; we generally do not share information for these purposes.

#### § 401.305 Within HHS.

The Privacy Act allows an agency to share information inside the agency when necessary for the agency to carry out its duties. For purposes of this provision, HHS considers itself one *agency*. SSA, as a part of HHS, discloses infor-

mation to another HHS component when SSA determines that the other component has a legitimate need for the information and no other law prohibits it.

#### § 401.310 Compatible purposes.

(a) *General.* The Privacy Act allows us to disclose information, without the consent of the individual, to any other party for *routine uses*.

(b) *Routine use.* This means the disclosure of a record outside HHS for a purpose which is *compatible* with the purpose for which the record was collected. We publish notices of systems of records in the FEDERAL REGISTER which contain a list of all *routine use* disclosures.

(c) *Determining compatibility.* We disclose information for *routine uses* where necessary to carry out SSA’s programs. It is also our policy to disclose information for use in other programs which have the same purposes as SSA programs if the information concerns eligibility, benefit amounts, or other matters of benefit status in a social security program and is relevant to determining the same matters in the other program. For example, we disclose information to the Railroad Retirement Board for pension and unemployment compensation programs, to the Veterans Administration for its benefit program, to worker’s compensation programs, to State general assistance programs, and to other income maintenance programs at all levels of government; we also disclose for health-maintenance programs like Medicare and Medicaid, and in appropriate cases, for epidemiological and similar research.

#### § 401.315 Law enforcement purposes.

(a) *General.* The Privacy Act allows us to disclose information for law enforcement purposes under certain conditions. Much of the information in our files is especially sensitive or very personal. Furthermore, participation in social security programs is mandatory, so people cannot limit what information is given to us. Therefore, we generally disclose information for law enforcement purposes only in limited situations. Paragraphs (b) and (c) of this